

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

DAVID STEVEN BRAUN

Plaintiff,

vs.

UNITED STATES POST OFFICE

Defendants.

CV 16-24-BU-BMM-JCL

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS**

Plaintiff David Braun filed a Complaint (Doc. 2) and a Motion to Proceed in forma pauperis (Doc. 1). Braun included the necessary affidavit of financial resources in support of the Motion (Doc. 5). United States Magistrate Judge Jeremiah Lynch entered Findings and Recommendations in this matter on June 15, 2016. (Doc. 12 at 3.) Judge Lynch recommends that the Court deny Plaintiff's Motion to Proceed in forma pauperis. *Id.*

This Court will review Judge Lynch's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Court possesses discretion to grant permission to proceed in forma pauperis. See 28 U.S.C. §1915(a). The court should grant the statutory benefit only

in cases in of exceptional circumstances. *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963). The court can grant the request if the applicant demonstrates sufficiently an inability to pay the court costs and to provide himself and his dependents the “necessities of life.” *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

Braun’s case presents no exceptional circumstances. Paying the court costs would not deprive Braun of the necessities of life. Braun discloses a monthly income of \$3,527 in his financial Affidavit. Braun’s monthly expenses are just more than one-third of his monthly income, totaling \$1,333. Braun also lists significant financial assets. Braun possesses a bank account with a balance of \$9,000. Braun owns a home that he values at \$200,000 in Big Sky, Montana. Braun owns an Infiniti automobile.

Braun’s income, his assets, and lack of dependents indicate that paying the court costs would deprive Braun of the necessities of life. Additionally, the Magistrate Judge noted that the claim in this case mimics a prior lawsuit, *Braun v. USPS*, CV 14-72-BUCV- DWM-JCL, which this court dismissed without leave to amend. (Doc. 12 at 2.) Based on these findings, the Magistrate Judge did not commit clear error in denying the application to proceed in forma pauperis. The Court adopts Judge Lynch’s Findings and Recommendations in full.

Accordingly, **IT IS ORDERED** that Braun's request to proceed in forma pauperis (Doc. 1) under 28 U.S.C. § 1915(a) is **DENIED**. The Clerk of Court shall enter, by separate document, a judgment of dismissal.

DATED this 27th day of June, 2016.

A handwritten signature in blue ink that reads "Brian Morris". The signature is fluid and cursive, with "Brian" on top and "Morris" on the bottom, both starting with a capital letter.

Brian Morris
United States District Court Judge